

DETAILED ACTION

Applicant's amendment after final rejection filed 3/27/08 has been entered. Finality of the rejection of the last Office action (mailed 10/31/07) is withdrawn.

Applicant's arguments submitted 3/27/08 with respect to claims 1 and 10-11 have been considered but are moot in view of the new ground(s) of rejection.

The rejections of claims 1, 10, and 11 under 35 U.S.C. 101 and 112 are hereby withdrawn.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 10, and 11 are rejected under 35 U.S.C. 102(e) as being anticipated by Gao et al. (U.S. Patent No. 7,285,623 B2).

Gao et al. discloses and claims the human neurotrimin protein. The claimed SEQ ID NO: 523 corresponds identically to instant SEQ ID NO: 3 and completely contains instant SEQ ID NO: 4. See at least abstract, claims, Figure 222, columns 107-108 and 176, and sequence listing of Gao et al.

Gao et al. claims and is entitled to benefit of provisional application 60/079,294 filed March 25, 1998, for disclosure of the claimed polypeptide and compositions containing it. This date is prior to the filing date of applicant's Japanese priority document, namely May 14, 1998.

Conclusion

No claim is allowed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marianne P. Allen whose telephone number is 571-272-0712. The examiner can normally be reached on Monday-Friday, 5:30 am - 2:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Manjunath N. Rao can be reached on 571-272-0939. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Marianne P. Allen/

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